

# **AB 2765 – Emergency Aerial Spraying – Process and Disclosure**

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## **Assemblymember Jared Huffman**

### **IN BRIEF**

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Sets new limits on the Secretary of Food and Agriculture's emergency pest eradication powers. Requires a public hearing to examine alternatives to aerial spraying prior to any decision to spray. Bars emergency spraying in an urban area unless there is full disclosure of all elements in any pesticide product, and a certification of the safety of the product by state health officials.

### **THE ISSUE**

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The California Department of Food and Agriculture (CDFA) is proposing an emergency eradication program this year for the Light Brown Apple Moth (LBAM) in the Bay Area. The program is to include ground applications of twist-ties infused with pheromones and aerial application of the pheromones. The proposed spraying areas include urban areas in Marin, San Francisco, Alameda, Santa Cruz, San Mateo, and Monterey Counties.

### **EXISTING LAW**

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Existing law authorizes the Secretary of Food and Agriculture to proclaim any area in the state as an eradication area with respect to a pest. This proclamation confers specific emergency authority on the Secretary, but does not require disclosure of ingredients proposed for spraying, nor does it require a public hearing or an official certification of safety.

### **THE SOLUTION**

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AB 2765 is a common-sense approach to the LBAM problem. It works within the existing emergency authority of the Secretary by requiring him to examine – at a public hearing -- all alternatives – before deciding to spray. Further, it will require an independent state agency – such as the Department of Public Health – to certify that a product is safe before it is aerially sprayed. Finally, it requires complete disclosure of all ingredients in any product before it is applied aerially.

### **BACKGROUND**

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Last year, a retired entomologist in Berkeley trapped a Light Brown Apple Moth (LBAM) in his backyard. This LBAM find alarmed federal, state, and local agricultural officials, since the moth has proven to be a pervasive and expensive pest in its native Australia and areas where it has migrated (including New Zealand and Hawaii). The pest has been found in nine California counties. The CDFA, in conjunction with the United States Department of Agriculture (USDA), developed a plan designed to eradicate the insect from the state. Last year, that program included quarantine, and ground and aerial applications of control agents including pheromones. Aerial application proved controversial in Monterey and Santa Cruz counties. The 2008 CDFA program proposes to spray in the Bay Area – including Golden Gate Park, Alameda County, and Marin County. At a hearing of the Assembly Environmental Safety and Toxic Materials Committee in February, Chair Huffman raised questions about the decision-making process leading to aerial application, the safety of the aerial spray materials, and full disclosure of the material proposed for spraying.

### **RELATED LEGISLATION**

AB 2763 (Laird) Requires the Department of Food and Agriculture to plan for likely invasive animals, plants, and insects for which an eradication program might be appropriate.

AB 2764 (Hancock) Prohibits the Secretary of Food and Agriculture from approving the application of a pesticide in an urban area, unless the Governor has proclaimed a state of emergency.

AB 2760 (Leno) Requires an Environmental Impact Report be completed before the state Department of Food and Agriculture can apply pesticide in an urban area for the eradication of the light brown apple moth.

AB 2892 (Swanson) Requires voter approval of aerial spraying of pesticide.

### **FOR MORE INFORMATION**

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